IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.A. No.12/2001

Reserved on.30.11.2007

Decided on.7.12.2007

State of H.P. **…Appellant.**

Versus

Sohan Lal. **…Respondents**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*. No.*

For the appellant	**:**	**Mr. M.A. Khan, Deputy Advocate General.**
For the respondent-accused	**:**	**Mr. B.P. Sharma, Sr. Advocate with Mr. Sandeep Vashisth, Advocate.**

Rajiv Sharma, J.

The respondent was accused in criminal case No.452/1 of 1996 and was prosecuted for offences punishable under sections 325, 323 and 506 of the Indian Penal Code in the Court of Additional Chief Judicial Magistrate Ghumarwin, District Bilaspur, H.P and was acquitted on 30.6.2000. The State has filed this appeal assailing the acquittal of the accused.

The facts as projected in the trial court are that on 15.6.1996 at about 11.30 A.M. at village Tihra Badgaon, accused Sohan Lal stated to have caused grievous as well as simple injury to complainant Smt. Ram Pyari. The matter was reported to the police on the basis of which FIR Ex.PW-12/A was registered in the Police Station. The matter was investigated by the police and consequently the challan was put up. The accused was charged for offences punishable under sections 323, 325

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

and 506 of the Indian Penal Code. The statement of the accused was recorded under section 313 of the Code of Criminal procedure. He had pleaded not guilty. The trial court acquitted the accused on 30.6.2000. Hence, the present appeal by the State against the acquittal of the respondent.

The learned Deputy Advocate General had strenuously argued that the prosecution has proved the charges against the accused. He also contended that the trial court has failed to appreciate the evidence led by the prosecution during the trial.

Mr. B.P. Sharma, Senior Advocate appearing on behalf of the respondent had supported the judgment dated 30.6.2000.

I have heard the learned counsel for the parties and perused the record meticulously.

The complainant Ram Pyari had appeared as PW-1. She has stated that on 15.6.1996 at about 11.30 A.M. she along with her son was present in her field. The accused, Sohan Lal, came and started abusing them. She further deposed that accused took a stick of *Dandalti* which is used for agriculture purpose. He inflicted injuries on the head of the complainant with *Dandalti*. At that time Smt. Biasan Devi and Baldev were working in their nearby fields, who came to the spot. She was medically examined and X-ray was also done. She identified the stick Ex.P-1 in the Court. She had admitted about the execution of a will vide which 10-16 bighas of land has been given to minor boys. She had shown her ignorance whether the disputed fields have been given to Sh. Naresh and Sh. Dalip through a will. She has also admitted that her husband and her Jaith had filed a civil suit against minors Naresh and Dalip. It is thus evident that there is a dispute arising out of the landed property. In the FIR it is stated by the complainant, Ram Pyari, that the land of

complainant party and accused party is joint in equal shares. In the FIR she had stated that accused Sohan Lal had inflicted injury on her head with a lathi (stick), whereas in the statement made in the court, she had stated that the injury was inflicted with the stick taken from Dandalti. PW-2, Smt. Biasan Devi has deposed before the trial court that her son was present at the place of occurrence and thus it is not imaginable why her son did not rescue the complainant from the clutches of the accused. Smt. Biasan Devi is the family member of the complainant. PW-2 Biasan Devi in her statement had deposed that she was present on the spot but as per the statement of the complainant she came on the spot after the occurrence. The statement of PW-3 Baldev cannot be believed with regard to his presence at the spot at the time of incident. PW-4 Budhi Singh has corroborated the version of prosecution in his examination in chief. He has stated that the accused had inflicted the injury on the head of the complainant with stick, but in his cross-examination, he has stated that accused inflicted only one injury on the head of the complainant and no other injury was inflicted in his presence. PW-5 Anand Vardhan, the son of the complainant, who was ploughing the filed on 15.6.1996. He has stated that his uncle (Taya), Sohan Lal came with a stick on the spot and he pushed him and also inflicted 2-3 injuries on the person of his mother. The presence of son of the complainant is not stated in the FIR. PW-6 Ajudhya Lal version cannot be taken into consideration since he was told about the incident after the occurrence had taken place by the complainant. PW-7 Gopal had stated that on 15.6.1996 at about 11.30 A.M he saw the accused Sohan Lal burying the stick under the soil. In his cross-examination, he has admitted the pendency of the civil litigation between him and the accused Sohan Lal.

Cumulatively it can be held that there is a civil dispute going on between the parties with regard to the fields. There are discrepancies and contradictions in the statements made by the prosecution witnesses. It is highly improbable that the son will not intervene when his mother is attacked in the present case by the accused. PW-2 Smt. Biasan Devi has deposed that her son was present on the spot though this fact was not mentioned in the FIR registered at the instance of the complainant. The presence of PW-3 Baldev and PW-5 Anand Vardhan is also doubtful. PW-7 Gopal was having inimical relations with the accused. The trial court after correctly appreciating the evidence led by the prosecution had acquitted the accused.

In view of the observations made above, this court need not interfere in the well reasons judgment of the trial court.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the respondent-accused are discharged.

(Rajiv Sharma), Judge

December 7, 2007
Awasthi